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LETTER](#)

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January 4, 2005

**Stan Wisniewski**  
Director

**Kerry Gottlieb**  
Chief Deputy

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA. 90012

Dear Supervisors:

**AUTHORIZE THE CHIEF ADMINISTRATIVE OFFICER AND DIRECTOR OF THE  
DEPARTMENT OF BEACHES AND HARBORS TO ENTER INTO EXCLUSIVE  
NEGOTIATIONS WITH ALMAR MANAGEMENT/PACIFIC MARINA DEVELOPMENT FOR  
AN OPTION AND LONG-TERM LEASE FOR DEVELOPMENT OF PARCELS 52R AND  
GG - MARINA DEL REY  
(4<sup>th</sup> DISTRICT)  
(3 VOTES)**

**JOINT RECOMMENDATION WITH THE CHIEF ADMINISTRATIVE OFFICER THAT  
YOUR BOARD:**

1. Authorize the Chief Administrative Officer ("CAO") and Director of the Department of Beaches and Harbors ("Director") to proceed with exclusive negotiations with Almar Management/Pacific Marina Development (ALMAR) for development of Parcels 52R and GG in Marina del Rey.

**PURPOSE AND JUSTIFICATION OF RECOMMENDED ACTION**

Pursuant to your Board's authorization, the Department issued a Request for Proposals (RFP) for development of Marina del Rey Parcels 52R and GG. The solicitation requested proposals to provide for replacement, expansion and enhancement of boat storage and small boat repair facilities now located on Parcel 77W which, along with a portion of Parcel 44U, is slated for County acquisition in connection with expanded park, recreational boating and visitor-serving development. The RFP solicited proposals from parties for new dry boat storage and allied uses, including mast-up storage, boat wash down facilities, and small boat repair facilities, as well as replacement of the existing Sheriff's boatwright facility and the maintenance dock situated on Parcel GG. The RFP also provided the opportunity for a combined project that could include parcels adjacent to or near the proposed project site, so long as such proposals demonstrated control of any such adjacent parcel. Three proposals were received prior to the submission deadline and evaluated by a committee formed for the purpose of reviewing the proposals (Evaluation Committee). Approval of this item by your

Board would authorize the CAO and Director to proceed with exclusive negotiations with the highest ranked proposer, ALMAR, for a long-term lease and development of Parcels 52R and GG.

#### Implementation of Strategic Plan Goals

In furtherance of County Strategic Plan Goals Nos. 4 and 6, "Fiscal Responsibility" and "Community Services", the recommended action will allow the Department to implement that portion of its Strategic Plan that enhances strategic partnerships with existing and prospective lessees through proactive implementation of the Marina del Rey Asset Management Strategy (AMS) toward both revenue maximization and property development. Implementation of these goals will be accomplished in conjunction with architectural and urban planning guidelines that ensure the integration and aesthetics of the Marina's redevelopment while achieving fair market returns from County property. The resulting project will also provide an enhanced level of services to the community.

#### FISCAL IMPACT/FINANCING

The recommended Almar proposal offers improved County lease revenue on each of the parcels to be redeveloped. Existing income to the County from Parcel 52R, largely utilized for auxiliary parking, was approximately \$23,500 for fiscal year 2003/2004. County-operated Parcel GG is currently used for administrative offices by the Department, and includes one of the Department's maintenance facilities, temporary office trailers, the County Sheriff's boatwright shop, and related dock space, as well as a Sheriff's auto servicing/repair facility, and provides no current County income. The Department will be responsible for relocating its administrative and maintenance facilities while the Sheriff will be responsible for relocating its auto servicing/repair facility. The Sheriff's boatwright facility and the maintenance dock will be retained and rebuilt by ALMAR as part of the proposed project. Income to the County after completion of construction and stabilization of the proposed project is projected to increase to approximately \$292,000 annually, an approximate \$268,500 annual increase.

If negotiations are authorized, the County will incur costs for economic and legal consultants utilized in the negotiations and preparation of documents for the proposed project.

#### FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Three proposals were received prior to the RFP due date and reviewed by the Evaluation Committee appointed by the Director. A fourth proposal was rejected due to late and incomplete filing. The three proposals received and evaluated were provided by ALMAR, The KOR Realty Group (KOR) and Waterfront Investors, LLC (Waterfront).

The Evaluation Committee reviewed each proposal and conducted interviews with the proposers, after which it scored and ranked each proposal and presented its recommendation to the Director. The committee was composed of the Department's chief negotiator, one of the Department's economic advisors, a Principal Analyst from the County's Chief Administrative Office, and one of the Department's design consultants.

All three proposals were judged by the Evaluation Committee to have been submitted by well qualified respondents and to have met the base RFP criteria. However, in each of the RFP judging criterion — a) revenue enhancement; b) project implementability; c) implementation of AMS concepts relating to design and development; and d) creativity and Marina upgrade — the ALMAR proposal received the highest Evaluation Committee scores and was, thus, recommended for exclusive negotiations. Details relating to the Evaluation Committee's actions and its assessment and scoring of each proposal are set forth in the Committee's recommendation letter to the Director, attached as Exhibit 1.

The recommended project proposed by Almar calls for the two-phase development of two dry stack storage buildings, with the buildings designed to extend over portions of the leasehold water area, creating additional space for parking and boat dry stack and mast-up storage. The project contains building space totaling 55,880 sq. ft. (361 dry stack boat storage spaces and space for an additional 19 vessels to allow the queuing, launching, retrieval and servicing of boats; two overhead six-ton capacity cranes; a 1,600 sq. ft. small boat maintenance and repair facility; and a lobby and office); 1,250 lineal feet of docking facilities, creating a water staging area for 31 vessels; an Americans with Disabilities Act (ADA) compliant boat ramp; 32 mast-up sailboat surface storage spaces; 3 double-spaced public wash-down facilities; 148 parking spaces; a 28 foot pedestrian promenade; a five-ton capacity boat launch hoist; and a separate building containing a 6,000 sq. ft. Sheriff's boatwright shop.

The two-building design allows for maximized view corridors to the water from the street side of the project and utilizes overhead cranes, rather than forklift apparatus, to store, retrieve and launch boats, resulting in a more space-efficient operation that maximizes the storage and facility capacity.

A recommendation to proceed with exclusive negotiations with ALMAR was previously presented to your Board on November 8, 2003 and was referred back to the Department for information regarding four issues: 1) clarification of the California Coastal Commission's (Commission) position relating to approval of structures extending over the water area of the leasehold; 2) whether the project would be compliant with ADA requirements; 3) whether adequate parking was provided by the proposed project design; and 4) whether any increased liability questions were presented by the proposed design. With respect to these issues, the Department has reported as follows:

- 1) The Department and the recommended proposer, ALMAR, have each met with the Commission staff and have received comments, with ALMAR also having received written expressions from several Commission members. While the Commission members and staff have indicated that it is premature to commit a detailed recommendation or conditions of approval prior to actual submission of a complete application and final submitted design, the comments received from each indicate a willingness to consider a boat storage facility design with over-the-water elements.
- 2) We have also reaffirmed that ALMAR's proposed conceptual plan has been designed to meet all current ADA requirements, including ADA accessible ramps and building access. The final approval of design schematics and specifications will require approval of all ADA-related issues as part of the regulatory/permit process.
- 3) Current County regulations do not contain specific requirements relating to dry boat storage uses and exact parking requirements will be established by the Regional Planning Commission as part of the permit process. However, a survey of other jurisdictions that have either specifically issued parking permits for such uses or established regulations relating to boat storage uses indicates that the 148 proposed parking spaces for the dry storage facility will meet or exceed the requirements for the use type.
- 4) The Department had one of its marine engineers, as well as the Department's architectural consultant, evaluate this proposal with reference to any anticipated difficulties or liability issues relating to current Marina infrastructure (e.g., seawalls, etc.) and the indicated operation of the proposed facility. No liability questions unique to building over the water have been identified. The proposed method of construction on pilings is currently in use in numerous over-the-water structures of all types, including marine, office, residential and retail structures at lake and coastal locations throughout the United States and elsewhere. In addition, the proposed construction utilizes an overhead crane system that retrieves and delivers boats faster than systems utilizing forklift trucks and deposits them in the water within the confines of the building structure, thus avoiding the need for, in particular, over-the-seawall-edge delivery requirements of forklift boat launch and retrieval systems and the attendant potential liability issues associated with such systems.

#### **Regulatory Amendments Required**

This proposed project will require an amendment to the Marina del Rey Local Coastal Program ("LCP"), approved by the California Coastal Commission in 1996, in that the LCP designates Parcels 52R and GG for Public Facility and Water development. The proposed development will involve a change in zoning to Marine Commercial with a Waterfront Overlay Zone designation to accommodate the proposed project.

The Small Craft Harbor Commission, at its meeting held on October 8, 2003, endorsed the Director's recommendation on a 3-1 vote that your Board authorize the CAO and Director to enter into exclusive negotiations with ALMAR for an option and long-term lease. The dissenting Commissioner expressed opposition to construction over the water portion of the leasehold area, which has since been modified as opposition to extensive encroachment over the water area.

#### **ENVIRONMENTAL DOCUMENTATION**

Development of the proposed dry stack boat storage facility and related improvements will require the issuance of various land use entitlements, including coastal development permits and an LCP amendment. A full environmental review will be conducted as part of the land-use entitlement process. The issuance of permits authorizing any of the proposed construction will be contingent upon completion of the land use entitlement and/or environmental review process. Exercise of any option for a long-term lease approved by your Board as a result of the exclusive negotiations recommended by this letter will be contingent upon the successful completion of these regulatory processes.

#### **IMPACT ON CURRENT SERVICES OR PROJECTS**

Parcels 52R & GG contain approximately 3.09 acres of land area and 1.16 acres of water area and include 400 feet of water frontage. County-operated Parcel GG is currently used for administrative offices by the Department, as a Department maintenance facility, and also houses the Sheriff's boatwright shop and County maintenance dock. Parcel 52R is currently used as a pick-up and drop-off area for charter boat operations and for public parking. The County will assume responsibility for the relocation of its administrative and maintenance offices located on Parcel GG while replacement facilities for the Sheriff's boatwright operation and the County maintenance dock will be relocated on-site as part of the proposed project. The current public parking and charter boat pick-up activities of Parcel 52R will be moved to Parcels 55, 56 and W as part of a proposed new project at that venue. Following completion of the proposed development for Parcels 52R and GG, the lessee will be responsible for providing parking for its own on-site uses.

#### **CONCLUSION**

Please forward one adopted copy of this Board letter to the Department of Beaches and Harbors.

The Honorable Board of Supervisors  
January 4, 2005  
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Respectfully submitted,

*Stan Wisniewski*

Stan Wisniewski  
Director

**ORIGINAL SIGNED**

David E. Janssen  
Chief Administrative Officer

SW:RM

Attachments (1)

c: Executive Officer, Board of Supervisors  
County Counsel

**MEMORANDUM**

To: Stan Wisniewski, Director  
Department of Beaches and Harbors  
County of Los Angeles

From: Boat Central RFP Evaluation Committee

Subject: Evaluation of Responses to *Request for Proposals for Development of Boat Storage Facilities on Parcels 52R and GG*

Date: September 30, 2003

**Introduction**

The Boat Central Evaluation Committee (the "Committee") was formed to evaluate submittals received in response to the *Request for Proposals for Development of Boat Storage Facilities on Parcels 52R and GG* (RFP). This solicitation was approved by the Board of Supervisors and issued by the Department of Beaches and Harbors (the "Department") on April 1, 2003.

The primary stated objective of the RFP is development of boat storage facilities incorporating boater-friendly, waterfront-oriented design. Additional stated aims of the RFP include development of other boater/coastal dependent uses that will encourage recreational boating, and visitation and use of the Marina's retail, restaurants and public facilities in the vicinity.

The RFP also required the proposer to provide facilities on the RFP parcels that include: 32 sailboat mast up storage spaces and a launching hoist; short-term dock queuing space; a small boat repair operation; boat wash down facilities; a Sheriff's boatwright shop and related dock space for both the Sheriff and the Department's maintenance craft.

**Evaluation Process and Methodology**

The Department received a total of three (3) submissions by the June 30, 2003 deadline. One (1) late and incomplete submission was also received on July 1, 2003, and was therefore rejected.

The proposals were evaluated by the Committee which is comprised of four members: Richard Volpert, Esq. of Munger, Tolles & Olson, the Department's chief negotiator; Bob Wetmore of Keyser Marston Associates, Inc. one of the Department's economic consultants; Richard Orne of Orne Associates, one of the Department's design consultants; and Cheryl Fuerth of the Chief Administrative Office's Asset Management Division. The Committee's charge was to judge competing proposals and to make a recommendation to the Director as to which proposal should be considered for exclusive negotiations with the County for construction of the proposed project.

The Committee evaluated and scored each proposal on a competitive basis. Proposals were judged on their relative revenue enhancement, the likelihood that the project would be implemented,



conformance of the project with the Marina del Rey Asset Management Strategy ("AMS"), and the overall creativity of the project. A summary of the Committee's Evaluation Criteria is set forth in Table One below.

**Table One  
Evaluation Criteria**

**Purpose:** The Development of Boat Storage Facilities  
Incorporating Boater-Friendly, Waterfront-Oriented Design.

- Revenue Enhancement
- Project Implementability
- Implementation of AMS
- Creativity and Marina Upgrade

The Committee met on three separate occasions to analyze the proposals and to consider potential policy considerations relating to each individual submission. Each of the respondents was also interviewed by the Committee. The information evaluated includes project specifics, such as the number of dry boat storage spaces proposed, the overall cost of the project, the proposed annual rent to the County, and design factors. Each of the proposals was scored on the basis of the above criteria.

### **Results of Evaluation**

Proposals were received from Almar Management, Inc./Pacific Marina Development, Inc. (Almar), KOR Realty Group (KOR), and Waterfront Investors, LLC/Bellport Group (Waterfront). Each proposal was evaluated and scored by the Committee. The Committee recommends that the County pursue exclusive negotiations for the RFP project with Almar.

Each of the timely submitted proposals received in response to the RFP were from well qualified respondents and each met the base criteria of providing at least the minimum number of dry storage and mast-up spaces plus other required facilities. While the proposals submitted by the other two proposers, KOR and Waterfront, also met the requirements and major goals of the RFP in overall terms, the Almar proposal was judged superior in all of the evaluation criteria categories. The Almar proposal maximizes the site's buildable area with a design for a storage structure partially built over the water. This design concept results in a larger capacity project and eliminates the need for expensive structured parking. The following table summarizes the average numeric scores of the three proposals.

**Table Two  
Summary of Scores**

<b>Respondent</b>	<b>Recommended for Exclusive Negotiations</b>	<b>Score</b>
Almar Management/PMD	Yes	91
Boat Yard/KOR Realty	No	86
Waterfront Investors	No	56

### Discussion

#### **Almar Management/Pacific Marina Development, Inc.**

The Almar project is proposed as a partially over water, two-building (55,880 total square feet), two-phase development, with construction of the second phase to commence upon achieving 60% occupancy of phase one, and will accommodate 361 dry stack spaces, 32 mast-up spaces, staging area for 31 boats, 1,250 lineal feet of dock, and 148 parking spaces along with additional RFP required elements.

This project yields the highest potential ground rent to the County, and although the Committee recognizes the potential complexity of a phased approach and recommends that the phasing be allowed only on condition that firm construction and completion dates for the second phase of the project be contractually required, the Committee believes this project has the ability to generate the highest revenue of the three proposals submitted. The over water design frees additional landside area and eliminates the need for a parking structure. The design of on-site parking that is set slightly below grade acts to enhance the view corridors of the water from the adjacent Fiji Way, allowing views from the street less obstructed by parked cars. The economic projections appear realistic for the proposed project and, based on the demonstrated demand at other Southern California dry stack storage sites, the proposed rates seem achievable if properly marketed.

Almar's submittal of a two-building, partially over-water design presents a unique and efficient design as well as a striking architectural statement that upgrades and enhances the value of the RFP site. The building shell is proposed as a low maintenance, translucent outer covering that presents a luminous night-time surface. While the Committee appreciates that the proposed design is aggressive and acknowledges that placing part of a building over the water may present regulatory challenges, this design has many demonstrated positive characteristics and our planners have not identified factors that place this plan in contradiction to regulatory requirements. The two building configuration maximizes view corridors and the Committee is also satisfied that there are no significant wind-shadow or navigational obstacles presented by the design. The use of overhead cranes to move and place boats in the water results in a higher speed, more space efficient launch and retrieval system and further allows for increased site capacity. Almar appears to have a strong

commitment to the project as they propose a 40% equity participation. In addition to their design and construction experience, Almar has extensive Marina experience, currently operating numerous marina facilities in California and throughout the U.S.

The Committee was particularly impressed by the depth and expertise of the project team, virtually all of whom have long and direct experience in the development, construction and operation of marina facilities and particular experience in dry-stack design, construction and operation. As a result, the Almar proposal was ranked first among all proposals in each criterion.

### **KOR Realty Group**

The KOR project presents a combined proposal, utilizing the adjacent Parcel 53 controlled by the lessee-proposer. The project proposed is a single, 5-story storage building (42,000 total square feet), that will accommodate 285 dry stack spaces, 30 mast-up spaces, staging area for 19 boats, and 162 parking spaces along with additional RFP requirements.

The Committee was impressed with the financial strength and project management capabilities of KOR. However, although KOR has strong Marine experience (it owns and operates the adjacent Parcel 53-Boat Yard), KOR did not demonstrate dry-stack operation experience nor the depth of experience and expertise shown by the higher ranked Almar proposal. The design, although utilizing a larger footprint combining the RFP parcels and Parcel 53, provides somewhat lesser boat storage capacity and consequent lower revenue. KOR's well thought out marketing plan indicates an aggressive pursuit of boaters, utilizing their marketing experience from other arenas (e.g. hotel and apartment operations).

However, KOR's percentage rent proposal was lower than Almar's and, combined with fewer stacked storage spaces, would yield less revenue to the County. Further, the Committee's analysis indicated that there appear to be good prospects that the increase in revenue generation and, hence, County rent projected by the KOR combined proposal for Parcels 53 and the RFP parcels could largely or entirely be accomplished without KOR's proposed development of the stacked storage facility, since much of the projected additional revenue is attributable to proposed added retail sales that could be accommodated on its existing Parcel 53 leasehold. The dry-stacking operation itself, as opposed to the overall rent proposed to be derived from the combined proposal for Parcels 52/GG/53, does not yield sufficiently attractive additional revenue over that derived from the currently existing operations at the adjacent parcel (Parcel 53) without the stacking operation and is therefore less attractive than the competing Almar proposal. The proposal also offered no extension fee for the requested extension of the Parcel 53 lease term, and overall, this proposal fails to meet the County's revenue enhancement expectations.

The Committee was favorably impressed by the overall planning and thought that was evident in the placement of the various project elements and the concept, largely rendered possible by the lessee's existing adjacent boating operations, of one-stop service for a variety of boater needs. However, the financial, direct experience and overall design factors demonstrated by the higher-ranked Almar proposal were judged to outweigh these attractive KOR project features.

### Waterfront Investors, LLC/Bellport Group

The Waterfront project proposes a single storage building (42,000 total square feet), that will accommodate 288 dry stack spaces, 23 mast-up spaces, 15,600 square foot staging area, and 177 parking spaces along with additional RFP requirements.

The Waterfront proposal appears to be backed by adequate financial resources and presents a basic, utilitarian design, using a steel frame structure. Of the 3 proposals submitted, the Waterfront proposal represents the most basic method of dry boat storage, however less attention appears to have been paid to architectural design and planning. While the design could be expected to function well, it does not present the view corridor enhancement or architectural treatment that are evident in the other proposals.

A significant detriment to the project is the proposed on-site parking structure that both limits capacity and increases project costs. This significant additional parking cost results in a greatly decreased ability to pay County rent and the proposed on-site parking structure also greatly reduces view corridor of the water from Fiji Way. Although the Waterfront team and its principals have many years of solid and proven operating experience as well as demonstrated strong project management capabilities, the configuration of this project is not highly desirable and the constraints imposed by the design render the proposal the least desirable of those submitted.

Despite the fact that the proposed rental rates are set at the higher end of potential market, the proposed County rent is low, given the potential of the parcel. The cost of a two-level parking structure significantly impacts potential revenue to County such that the proposer offers no rent to the County for the first five years of the lease and revenue to County is further limited by the proposer's requirement that additional percentage rent be paid only after computed minimum threshold returns to the proposer. The Waterfront proposal was, therefore, ranked below the others in terms of both design/creativity and revenue and, although scoring well for the demonstrated experience of the development team, not recommended for further negotiations.

### **Conclusion**

During the evaluation process, the Committee was mindful of the primary objective of this RFP: the development of boat storage facilities envisioned as incorporating boater-friendly, waterfront-oriented design. While each of the proposals were from highly qualified respondents and met many of the basic criteria and primary objectives of the RFP, the Committee recommends that the Almar Management/PMD proposal presents the best alternative, in terms of both financial and operational objectives, as well as providing the most visually creative, exciting and innovative proposal offered.

Respectfully submitted by members of the Boat Central Evaluation Committee, as set forth below.

Richard S. Volpert  
Partner  
Monger, Tolles & Olson LLP

Bob Wetmore  
Principal  
Keyser Marston Associates Inc.

**Waterfront Investors, LLC/Bellport Group**

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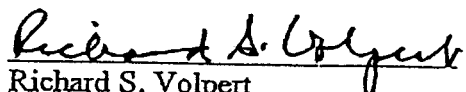
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### **Conclusion**

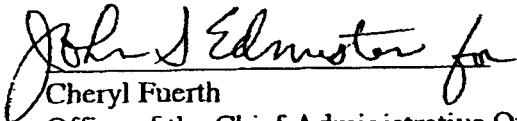
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Boat Central Evaluation Committee Recommendation

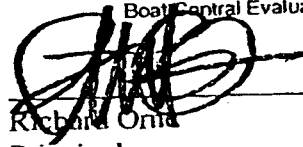


Cheryl Fuerth  
Office of the Chief Administrative Officer  
County of Los Angeles

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Richard Orme  
Principal  
Orme Associates

Boat Central Evaluation Committee Recommendation



Richard Orne  
Principal  
Orne Associates

Cheryl Fuerth  
Office of the Chief Administrative Officer  
County of Los Angeles





COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

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January 28, 2005

TO: SUPERVISOR GLORIA MOLINA, Chair  
SUPERVISOR YVONNE BRATHWAITE BURKE  
SUPERVISOR ZEV YAROSLAVSKY  
SUPERVISOR DON KNABE  
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: RAYMOND G. FORTNER, JR.  
County Counsel

RE: **Parking Requirements for Boat Central Request for Proposals**

Supervisor Knabe requested our opinion on whether or not the Boat Central Request for Proposals ("RFP") for Parcels 52R and GG in Marina del Rey authorized the submittal of proposals that propose parking at less than a 0.50 ratio of parking spaces to boat storage spaces.

We believe that the RFP, as clarified to all proposers, allows for the submission of proposals with alternative parking ratios under 0.50, and that interpretation is reasonable in light of the County Code requirements for parking, the RFP as a whole, and general rules of legal interpretation. We believe that your Board's reliance on such an interpretation would be seen as reasonable by a court, and therefore, it is unlikely that a court would disturb your Board's authorization of exclusive negotiations with a proposer on the basis that the proposer utilized such an alternative ratio.

However, your Board retains the right to authorize exclusive negotiations for whichever proposal you conclude best fulfills the objectives of the RFP and serves the best interests of the County. You also retain the right to reject all proposals, or solicit new or revised proposals.

## DISCUSSION

### A. Background.

The Department of Beaches and Harbors ("DBH") issued the RFP for development of boat storage facilities on Parcels 52R and GG in Marina del Rey in April, 2003. With respect to parking, the RFP's minimum buildout requirements identified: "Car parking as required by code to service storage spaces and other uses." RFP, p. 10, fig. 6. The RFP contains no further elaboration on the parking requirement.

The County's planning and zoning requirements for parking are contained in Title 22 of the County Code. While parking requirements for a number of land uses are specifically identified, Title 22 does not specifically identify a parking ratio requirement for boat storage. Where parking requirements for any use are not specified in the County Code, the Director of Regional Planning determines the amount of parking adequate to prevent traffic congestion and excessive on-street parking. County Code Section 22.52.1220. However, an applicant may nonetheless apply for a parking permit in the event he contends that a particular use does not have need for the parking otherwise required by Title 22. County Code Section 22.56.990. The stated intent of granting a parking permit is to provide more flexibility in the design of particular uses that have special characteristics by reducing the number of spaces otherwise required or authorizing required parking to be provided off-site.

Thus, in order to comply with the County Code requirements for boat storage parking, as originally set forth in the RFP, a parking ratio would have to be set by the Director of Regional Planning, but that ratio could be reduced or met off-site if an applicant applied for and obtained a parking permit.

After the proposer's conference held on April 30, 2003, one of the prospective proposers requested clarification of the parking requirement. The RFP permitted follow-up questions regarding the RFP and the project "for a limited time" after the proposer's conference. RFP, p. iv. According to the RFP, all responses to questions were to be shared with proposers of record. On May 22, 2003, Mr. Dick Stevens of Waterfront Investors, LLC ("Waterfront") asked whether the parking requirement would be 0.75, 0.50, or 0.25. In the question submitted by Waterfront, Waterfront asserted that it could prove, based upon actual usage, that a 0.25 or 0.30 ratio was sufficient. DBH provided a June 11, 2003 response ("Parking Clarification") to Waterfront's question, which was provided to all proposers. A copy is enclosed for your reference.



The Parking Clarification states that DBH consulted with the Department of Regional Planning and industry officials on similar projects, and that it was determined that a ratio of 0.50 parking spaces for each boat storage space would be used, but that DBH would nonetheless consider alternative ratios on the basis that the successful proposer might apply for a parking permit under Title 22 of the County Code.

Three proposals were received prior to the RFP due date and considered by the Evaluation Committee. Two of those proposers, Waterfront and KOR Realty Group ("KOR"), utilized an overall 0.50 parking ratio, and the other proposer, Almar Management/Pacific Marina Development ("ALMAR"), utilized a parking ratio of less than 0.50. DBH rejected a fourth proposal as being untimely and incomplete. An alternative proposal submitted by ALMAR was not evaluated. The Evaluation Committee ranked the ALMAR proposal highest and DBH has recommended that your Board authorize DBH to enter into exclusive negotiations with ALMAR to enter into a long-term ground lease for development of the site.

B. Objections Raised by the Unsuccessful Proposer.

KOR, through its principal, Mr. Gregory Schem, has raised objections to your Board authorizing exclusive negotiations with ALMAR. With respect to parking, KOR contends that the Parking Clarification required that all proposers utilize the 0.50 parking ratio, and that because the ALMAR proposal did not use the 0.50 ratio, it must be rejected.

KOR contends that the Parking Clarification was intended to provide a level playing field by requiring every proposer to use the same ratio. KOR points to the third sentence of the Parking Clarification in support of its position: "For the sake of responding to the RFP, it has been determined that a ratio of 0.50 parking spaces for each boat storage space provided will be used."

KOR asserts that all proposers should have been required to use the 0.50 ratio even if they intended to ultimately utilize a lesser ratio. The fourth sentence of the Parking Clarification reads: "The Department [of Beaches and Harbors] will nonetheless consider alternative ratios on the basis that the successful respondent might ultimately choose to apply for a parking permit under Title 22 of the Los Angeles County Code." KOR interprets this sentence to mean that DBH can only consider an alternative ratio if and when a successful proposer actually applies for a parking permit. Under this interpretation, DBH could only consider proposals utilizing the 0.50 parking ratio; however, the successful

proposer could later change the proposal if it was successful in applying for a parking permit. KOR also argues that the correct procedure for using an alternative ratio is to apply for a conditional use permit ("CUP"), rather than a parking permit.

KOR further argues that the justification provided by ALMAR in support of using an alternative ratio was insufficient.

It should be noted that KOR's own proposal does not strictly comply with KOR's interpretation of the Parking Clarification. KOR utilizes a 0.50 parking ratio for boat storage but does not provide all of the parking on-site. The KOR proposal places five parking spaces on adjacent Parcel 53. This off-site placement of parking spaces would only be permitted if the successful proposer applied for and obtained a parking permit in accordance with Title 22 of the County Code.

C. DBH's Interpretation of the Parking Clarification is Reasonable.

We believe that the Parking Clarification provides for the consideration of alternative ratios. General rules of contract interpretation provide that: "all of the writing must be read together and every part interpreted with reference to the whole, so that each provision therein will be effective for its general purpose." *Ghirardelli v. Peninsula Properties Co.*, 16 Cal.2d 494 (1940). Thus, effect must be given to both the third and fourth sentences of the Parking Clarification within the context of the RFP. The third and fourth sentences provide: "For the sake of responding to the RFP, it has been determined that a ratio of 0.50 parking spaces for each boat storage space provided will be used. The Department [of Beaches and Harbors] will nonetheless consider alternative ratios on the basis that the successful respondent might ultimately choose to apply for a parking permit under Title 22 of the Los Angeles County Code."

Giving effect to both sentences in the context of the original parking requirement makes it clear that DBH intended to consider alternative ratios. The third sentence sets the parking ratio for boat storage based upon what the Director of Regional Planning determined was adequate, because a specific ratio for that use was not otherwise provided by the County Code. The fourth sentence recognizes that a parking ratio either expressly set forth in the County Code or set by the Director of Regional Planning may be modified through the discretionary parking permit process. If DBH had no intention of considering proposals with alternative ratios, it would not have included the fourth sentence in the Parking Clarification.



Further, considering alternative parking ratios is consistent with the treatment of other entitlement issues in the RFP. The RFP clearly contemplates that proposals would necessarily entail the need for at least some discretionary land use entitlements. In fact, the very development of a boat storage facility itself, as contemplated by the RFP, would require changes to the land use designations for these parcels, likely necessitating a local coastal plan ("LCP") amendment. RFP, p. 14, section 3.9. The procurement of all such entitlements, including the LCP amendment, as well as a parking permit, would be subject to uncertainty because those entitlements are dependent on the consideration and approval of various agencies. Still, it was expected that the proposals reflect the proposed entitlements to be obtained by the successful proposer to implement its concept, and thus, it is consistent also to require that the proposals reflect any proposed use of an alternative parking ratio so that the need for a discretionary parking permit could be weighed in the evaluation process.

Among the criteria considered by the Evaluation Committee was entitlement risk, as well as creativity and quality, and design and construction capability. RFP, p. 22, section 5.8. It was up to the Evaluation Committee to weigh each proposer's ability to obtain the entitlements necessary to complete the project as proposed, as a part of the Evaluation Committee's overall consideration of each proposal. Accordingly, the prospect that proposers might submit proposals with different levels of entitlement risk, i.e., different variations of discretionary entitlements, was clearly contemplated by the RFP.

KOR's related argument that an alternative parking ratio would require a CUP rather than a parking permit does not change our analysis. Legally, KOR is incorrect, in that the County Code specifies a parking permit as the permit required to obtain permission to provide less than the standard amount of parking or to provide required parking off-site. But, in any event, both a parking permit and a CUP are discretionary land use permits that in this context could only be obtained after a proposer had already been selected. Further, the Evaluation Committee would have to evaluate the same type of entitlement risk for an alternative parking ratio whether it was permitted through a parking permit or a CUP.

Finally, KOR argues that ALMAR provided insufficient justification for using an alternative parking ratio. KOR takes issue with ALMAR's conclusion that a ratio of 0.25 is "generally accepted." First, it should be noted that ALMAR used a ratio of 0.40, not 0.25. Second, while KOR disputes the basis for ALMAR's contention, it contends that the ratio varies between 0.16 and 0.50, and Waterfront contends that the ratio should be between 0.25 and 0.30. Thus, it was not unreasonable for DBH to conclude that varying

ratios might be appropriate and that the RFP should allow for flexibility in design by accounting for alternative parking ratios.

Based upon the above, we believe that DBH's interpretation of the Parking Clarification is reasonable, as it gives effect to every part of the Parking Clarification in a manner that is consistent with the RFP as a whole, and therefore, we believe that DBH's interpretation is legally defensible.

- D. Your Board's Authorization of Exclusive Negotiations with the Recommended Proposer Would Not Be Seen as Unreasonable by a Court.

The award of a contract and all of the acts leading up to the award are legislative in character and those acts will not be disturbed by a court unless the agency's decision was arbitrary, capricious, or entirely lacking in evidentiary support. *Mike Moore's 24-Hour Towing v. City of San Diego*, 45 Cal. App.4th 1294, 1303 (1996). "The inquiry is whether the record shows a reasonable basis for the action of the legislative body, and if the reasonableness of the decision is fairly debatable, the legislative determination will not be disturbed." *Id.*, at 1305-1306.

As discussed above, we believe DBH's interpretation of the Parking Clarification is reasonable in light of the County Code requirements for parking, the RFP as a whole, and general rules of legal interpretation. Thus, your Board's authorization of exclusive negotiations with the recommended proposer based upon that interpretation would likely be seen as reasonable by a court. The fact that the Parking Clarification may be subject to other interpretations would not be a sufficient basis to disturb the decision. In the absence of fraudulent or arbitrary action, courts will not interfere with the discretionary actions of a legislative body. *Id.*, at 1305.

- E. Ultimate Authority is Reserved to your Board to Reject Proposals, Solicit New or Revised Proposals, or Chose the Proposal That Serves the Best Interests of the County.

It is important to note that the RFP properly reserves to your Board ultimate authority over the RFP process. The RFP contains the following language at p. 22, section 5.10:

Notwithstanding a recommendation of a department, agency, commission, individual, or other person, the Board of Supervisors retains the right to exercise its judgement concerning the selection



of a proposal and the terms of any resultant agreement, and to determine which proposal, if any, best serves the interests of the County. The Board is the ultimate decision-making body and makes the final determinations necessary to arrive at a decision. The Board reserves the right to reject any and all proposals.

We believe that the DBH's interpretation of the RFP parking requirement is reasonable and legally defensible, and if your Board authorized exclusive negotiations with the recommended proposer, we believe that such action would be upheld. However, if your Board is concerned that some of the proposers misunderstood the RFP requirements, your Board has the authority to: (1) direct the DBH to solicit new or revised proposals from the responsive proposers after further clarifying the parking requirement; (2) reject all proposals and direct DBH to clarify the parking requirement and re-issue the RFP to the public; (3) reject all proposals, reconsider the project objectives, and direct DBH to issue a new RFP consistent with redefined project objectives; or (4) reject all proposals, and take no further action. If you wish to proceed with the pending RFP process, but your Board does not want to chose the recommended proposal, your Board can, as provided by Section 5.10 of the RFP, chose whichever proposal your Board believes best fulfills the objectives of the RFP and serves the best interests of the County, so long as there is a reasonable basis for your decision in the record.

If you have questions concerning this matter, please contact me, Assistant County Counsel Richard D. Weiss at (213) 974-1921, or Principal Deputy County Counsel Thomas J. Faughnan at (213) 974-1823.

RGF:TJF:gm

Enclosure

c: David E. Janssen  
Chief Administrative Officer

Violet Varona-Lukens, Executive Officer  
Board of Supervisors

Stan Wisniewski, Director  
Department of Beaches and Harbors

# Memo

**To:** Boat Central RFP Respondents  
**From:** Alexander E. Kalamaros, CCIM, County Contact  
**Date:** 6/11/2003  
**Re:** Boat Central RFP: Parking Requirements

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Response to written question (adapted):

Q: Do we have to provide 0.75, 0.50 or 0.25 parking spaces per dry stack slot?

A: The Department of Regional Planning was consulted for an answer to the question of parking requirements. In addition, the Department also consulted with industry officials on similar projects. For the sake of responding to the RFP, it has been determined that a ratio of 0.50 parking spaces for each boat storage space provided will be used. The Department will nonetheless consider alternative ratios on the basis that the successful respondent might ultimately choose to apply for a parking permit under Title 22 of the Los Angeles County Code.

I can be reached at 310.577.7961 or by email at [akalamar@dbh.co.la.ca.us](mailto:akalamar@dbh.co.la.ca.us)